

REMARKS

Status of the Claims

Before this response, claims 1-55 were present for examination. Claims 1-8, 10, 11, 17-21, 23, and 36-40, 42-51, and 55 are amended herein. Claim 56 has been added. Claims 24-33 and 35 are canceled. Therefore, claims 1-23, 34, and 36-56 remain present for examination.

Claims 37-55 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1, 4, 37, and 38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0092015 ("Sprunk") in view of U.S. Patent No. 5,867,226 ("Wehmeyer").

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of U.S. Patent Publication No. 2004/0123329 ("Williams").

Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Williams in further view of International Patent Publication No. WO 02/054765 ("Tsuria").

Claims 5, 9, 39, and 40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of U.S. Patent Publication No. 2002/0104083 ("Hendricks").

Claims 6-8, 41, 50 and 53 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Hendricks in further view of U.S. Patent No. 6,009,116 ("Bednarek").

Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Williams in further view Bednarek.

Claims 11, 12, and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Bennett in further view of Japanese Patent Publication No. 2000244284 ("Suzuki").

Claims 13 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Bennett in further view of Suzuki in further view of U.S. Patent No. 6,035,037 (“Chaney”).

Claim 14 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Bennett in further view of Suzuki in further view of U.S. Patent No. 6,381,747 (“Wonfor”).

Claim 16 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Bennett in further view of Suzuki in further view of Wonfor in further view of U.S. Patent No. 6,177,931 (“Alexander”).

Claims 18 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Bennett in further view of Suzuki in further view of Hendricks.

Claims 19-21, and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Bennett in further view of Suzuki in further view of Hendricks in further view of Bednarek.

Claim 23 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Bennett in further view of Suzuki in further view of Bednarek.

Claim 36 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Bednarek in further view of Bennett in further view of Suzuki in further view of Williams.

Claims 42 and 51 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Hendricks in further view of Bednarek in further view of Williams.

Claim 43 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Hendricks in further view of Bednarek in further view of Williams in further view of Tsuria.

Claims 44 and 45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Hendricks in further view of Bednarek in further view of Bennett in further view of Suzuki.

Claims 46 and 48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Hendricks in further view of Bednarek in further view of Bennett in further view of Suzuki in further view of Chaney.

Claim 47 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Hendricks in further view of Bednarek in further view of Bennett in further view of Suzuki in further view of Wonfor.

Claim 49 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Hendricks in further view of Bednarek in further view of Bennett in further view of Suzuki in further view of Alexander.

Claims 52 and 54 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Hendricks in further view of Bednarek in further view of Zhou.

Claim 55 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sprunk in view of Wehmeyer in further view of Hendricks in further view of Bednarek in further view of Williams.

Applicant respectfully requests reconsideration of the application in light of the remarks below.

Amendments

Independent Claims 1 and 37

Independent claims 1 and 37 have been amended to include additional recitations. These recitations are supported throughout the specification, and for example at paragraphs 102, 104, 106, 111, and 233; as well as figure 2. Consequently, Applicant submits that no new matter is added by these amendments.

Dependent Claims 2-8, 10, 11, 17-21, 23, 36, 38-40, 42-51, and 55

Dependent claims 2-8, 10, 11, 17-21, 23, 36, 38-40, 42-51, and 55 have been amended to reflect, and correlate with, amendments made to independent claims 1 and 37. Consequently, Applicant submits that no new matter is added by these amendments.

Independent Claim 56

Independent claim 56 has been newly added. This new claim is supported throughout the specification, and for example at original claim 1 and paragraphs 102, 104, 106, 111, and 233; as well as figure 2. Consequently, Applicant submits that no new matter is added by these amendments.

Remarks

Claims 37-55 - § 101 Rejections

Claims 37-55 stand rejected as being directed to non-statutory subject matter. Applicant has amended these claims to clarify their recitation of statutory subject matter, specifically a system or apparatus which includes a processor and a machine-readable medium having instructions which are executed by the processor. Consequently, and without admission as to the previous nature of the subject matter of the above claims, Applicant respectfully submits claims 37-55 are now clearly directed to statutory subject matter. Therefore, Applicant respectfully requests withdrawal of the §101 rejections of claims 37-55.

Independent Claims 1 and 37 - §103 Rejections

Independent claims 1 and 37 stand rejected as being obvious over Sprunk in view of Wehmeyer. Applicant has amended these claims to include additional recitations.

The additional recitations clarify that the indicia of usage for at least two signal usage records are evaluated against a predetermined combination of indicia of usage that are associated with a combination of signals not authorized for usage together on a receiver. The claims also now expressly recite that the unauthorized signal usage is detected upon the usage indicia for the at least two signal usage records being consistent with the predetermined

combination of indicia, regardless of whether each instance of signal usage associated with the at least two actual signal usage records had been previously individually authorized for usage with the receiver. Neither Sprunk nor Wehmeyer teach or suggest such recitations, as discussed below.

The Office Action correctly identifies that Sprunk does not teach or suggest processing of two signal records as recited by the instant claims. Office Action, p. 4. Instead, the Office Action relies on Wehmeyer to teach or suggest recitations involving processing of two signal records. Office Action, pp. 4 and 6. However, neither Wehmeyer, nor a combination of Wehmeyer with Sprunk teaches or suggests the more detailed recitations of claims 1 and 37.

Sprunk indeed indicates that security checks are performed during normal operation on various functions in respect of a set-top box. See, e.g., Sprunk, Fig. 15B. The results of the security checks are reported to the headend of the system. See, e.g., *id.*, element 1534. Each set-top box has its own unique address that allows the sending of entitlement information to an individual set-top box. *Id.*, para. 35. The security verifications come in the form of checkpoints according to Sprunk. *Id.*, e.g., Fig. 15B, element 1534. These checkpoints are triggers for when an authentication or authorization step must be performed. *Id.*, Abstract and claim 8. As examples of checkpoints, Sprunk provides the storing of an object in long-term memory, the reading of an object from such long-term memory and the loading of an object into short-term solid-state memory. *Id.*, para. 48. In a particular embodiment described by Sprunk, an access control processor handles authentication or authorization for the checkpoints in question. *Id.*, para. 52.

The Office Action is correct to indicate that the employment of two signal usage records is not taught or disclosed by Sprunk. However, the consideration of two signal usage records in the manner now recited by the instant claims is also not provided by Wehmeyer, or its combination with Sprunk.

Wehmeyer is concerned with a television programming scheduler having a channel guide with an apparatus for searching for specific television programs that satisfy certain criteria concerning a viewer's viewing preferences. Wehmeyer, Abstract. One embodiment according to Wehmeyer includes a "predictive agent list" (*Id.*, col. 2, ll. 33-40 and Fig. 2) which

the Office Action relies on as disclosing the use of at least two signal records (Office Action, pp. 4 and 6). However, combining such disclosures of Wehmeyer with Sprunk still fails to teach or suggest the recitations of the amended independent claims, for the reasons set forth below.

According to claims 1 and 37 of the instant application as now amended, at least two signal usage records that are acquired for a receiver are evaluated “against a predetermined combination of indicia of usage that are associated with a combination of signals not authorized for usage together on said receiver[.]” Unauthorized signal usage is therefore detected upon determining that the respective usage indicia for the at least two signal usage records are consistent with the predetermined combination of indicia. The claims also now more clearly recited that this detection of unauthorized signal usage is made “regardless of whether each instance of signal usage associated with the at least two actual signal usage records have been previously individually authorized for usage with said receiver”.

By contrast, Wehmeyer does not even appear to authorize or authenticate signals , and all that Sprunk discloses is a system for individually and discretely authorizing or authenticating signal content delivery during normal operation. Sprunk, para. 32. But the instant claims, at least as now amended, recite detection of unauthorized signal usage regardless of whether the signal usage records have been previously individually authorized for usage with a receiver. This is because at least two signal usage records are further recited as being compared against a predetermined combination of signals not authorized for usage together on the said receiver. Neither Sprunk or Wehmeyer conduct, nor even contemplate, such a comparison as thus recited by the instant claims.

Furthermore, the combination of Sprunk with Wehmeyer does not remedy this deficiency. The Office Action points to Figure 2 of Wehmeyer in order to note that a series of multiple counts is tallied for various types of viewed programming. Office Action, pp. 4 and 6. The Office Action then posits that these multiple counts constitute the “at least two signal usage records” found in former Claims 1 and 37, but not taught by Sprunk. *Id.* However, Sprunk only contemplates a method for securing information associated with a content receiver that is part of a conditional access system, wherein an individual object may be subjected to authentication and/or authorization. Sprunk, para. 103. The objects are individually assessed for such

purposes. Id. Even if the Office Action were correct in its assessment that somehow the teachings of the Wehmeyer reference could be combined with those of Sprunk, all that would result from such a combination of disclosures would be that the Sprunk reference would then be extended to process objects provided by Wehmeyer in serial fashion. There is no additional teaching in Wehmeyer that would lead or motivate a person of skill in the art to arrive at the instant claims, which assess unauthorized signal usage by determining whether at least two signal usage records are consistent with a predetermined combination of indicia that are not authorized for usage together on a receiver.

As indicated above, in the instant claims this determination of unauthorized signal usage is made regardless of whether each of the at least two signal usage records have been previously individually authorized for usage with the receiver. The result of this innovative method is that the embodiments of the present invention can be used to detect unauthorized signal usage where a conditional access system may have been compromised or circumvented. Sprunk is not and cannot be directed to the resolution of this same problem, and Wehmeyer is deficient in providing any additional teaching, suggestion, or motivation to that effect.

For all of the above reasons then, all of the recitations of claims 1 and 37 are not taught or suggest by Sprunk and Wehmeyer, or the combination thereof. Thus, Sprunk and Wehmeyer fail to establish a prima facie case of obviousness with respect to these claims. Consequently, Applicant respectfully requests withdrawal of the §103 rejections of these claims, and also believes new claim 56 is allowable over Sprunk and Wehmeyer for at least the same reasons.

Claims 2-23, 34, 36, and 38-55

Claims 2-23, 34, 36, and 38-55 each depend, either directly or indirectly, from either claim 1 or 37, and are therefore believed to be allowable at least by virtue of their dependence from an allowable base claim. Consequently, Applicant respectfully requests withdrawal of the §103 rejections of these claims.

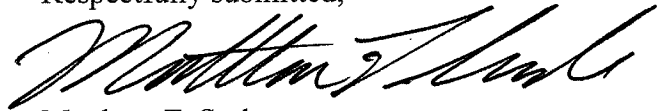
CONCLUSION

For at least all of the foregoing reasons, Applicant believes all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Further, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment in connection with this paper to Deposit Account No. 20-1430.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



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